

UNITED STATES BANKRUPTCY COURT  
For the Western District of Wisconsin

IN RE:

Randy Tranel  
Michelle Tranel, Debtors

CASE #12-16375

OBJECTION TO CLAIM

Bret Nason, as attorney for Debtors, hereby enters objection to the claim filed by Capital One, N.A. Said claim is listed in the claims register of Bankruptcy Court in this proceeding as Claim #3. The basis for the objection is as follows:

Capital One, N.A. ("Creditor") is not a secured creditor. Creditor's attachments to its proof of claim include an application for credit (Claim #3-2, page 10) and an unsigned sales receipt (Claim 3-2, page 11). Nothing purports to show that Debtors granted Creditor a security interest in any property other than a broadly stated sentence in the application that states, "You grant us a purchase money security interest in the goods purchased on your Account . . ." Creditor relies on these two attachments for its assertion that a purchase money security interest has been created.

Under the Wisconsin Uniform Commercial Code ("UCC"), a security agreement is enforceable only if "[t]he debtor has authenticated a security agreement that provides a description of the collateral . . ." Wis. Stat. § 409.203(2)(c)(1) (2011-2012). The UCC further provides that a supergeneric description is not sufficient to describe collateral. "A description of collateral as 'all the debtor's assets' or 'all the debtor's personal property' or using words of similar import does not reasonably identify the collateral." Wis. Stat. § 409.108(3) (2011-2012).

Creditor has not produced any document showing that Debtors authenticated a security agreement that provides a description of the collateral, as required by § 409.203 Stats. Creditor's

blanket and non-descriptive claim of a security interest in "the goods purchased on your Account" is precisely what § 409.108(3) Stats. prohibits.

Wisconsin's UCC statute on its face does not permit Creditor to assert a security interest in any of Debtors' assets. Therefore, based on the complete lack of description of collateral, Creditor's claim does not attach to any collateral and must be deemed unsecured. Debtors do not object to the allowance of the claim as a general unsecured claim.

Signed February 24, 2013

/s/ **Bret Nason**

Bret Nason, SB# 1070830

Attorney for Debtors

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NOTICE OF OBJECTION

PLEASE TAKE NOTICE that Bret Nason, as attorney for Debtors, has objected to the claim filed by Capital One, N.A. Any party desiring a hearing on this objection should file their request for such a hearing within 30 days of the date hereof with the Bankruptcy Court. If no such request is filed, the Bankruptcy Court may sustain the debtors' objection, shown below.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to issue an order rejecting this claim, or if you want the court to consider your views on the objection, then you or your attorney must file with the court a written request for a hearing, explaining your position with regard to the objection, at:

United States Bankruptcy Court  
120 N. Henry St., Room 340  
Madison, WI 53703

If you mail your hearing request to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

Unless a written request for hearing is filed with the court as described above, an Order may be entered as requested.

Signed February 24, 2013

/s/ **Bret Nason**  
Bret Nason, SB# 1070830  
Attorney for Debtors  
1344 Arbor Oaks Lane  
Lancaster, WI 53813  
(608) 348-4466  
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CERTIFICATE OF MAILING

Bret Nason, as counsel for Debtors herein, certifies that on February 24, 2013 he electronically served the trustee Mark Harring with Debtors' Notice of Objection and Objection herein. Counsel also certifies that on February 24, 2013, the following list of recipients were served by First Class U.S. Mail, postage prepaid:

Capital One, N.A.  
c/o Bass & Associates, P.C.  
3936 E. Ft. Lowell Rd, Suite #200  
Tucson, AZ 85712

Signed February 24, 2013

/s/ **Bret Nason**  
Bret Nason, SB# 1070830  
Attorney for Debtors  
1344 Arbor Oaks Lane  
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